FAO No.502 of 1991

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.502 of 1991
Date of Decision: 7-8-2006

Mahender Singh son of Ishwar Singh, resident of village Dongra Ahir, Tehsil Mahendergarh (Haryana)

.....Appellant

VERSUS

1.Sanwal Ram @ Sanwat Ram son of Rat Ram Kumhar resident of village Mohanpur Nangal P.O. Kanina, Tehsil and District Mahendergarh.(Driver of bus No.HYM-1029 of Haryana Roadways)
2.The General Manager, Haryana Roadways, Rewari Depot Rewari, Owner and incharge of Haryana Roadways bus No.HYM 1029
3.Oriental Insurance Company Limited, opposite Mini Secretariat, Narnaul. Insurer of Haryana Roadways bus No.HYM 1029
4.The State of Haryana through Collector Rewari, District Rewari.

.....Respondents.

CORAM:- HON'BLE MR.JUSTICE R S MADAN

PRESENT: Mr.ML Saini,Advocate
for the appellant.

Mr.Jaswant Jain,Advocate
for the respondents.

JUDGMENT

The present FAO arises out of the award dated 4-2-1991 passed by the Motor Accident Claims Tribunal, Narnaul vide which the appellant was awarded compensation of Rs.60,000/- for the injuries sustained by him in a motor vehicle accident, which had taken place on 20-1-1990.

In brief, the facts of the case are that the accident was caused on 20-1-1990 at about 10.00 A.M. on Narnaul-Mahendergarh Road, near village Nasibpur, Tehsil Narnaul by the Haryana Roadways bus No.HYM 1029 in which petitioner Mahender Singh son of Ishwar Singh, resident of Dongra Ahir had suffered injuries on his person. A criminal case was also lodged against the driver of the Haryana Roadways under Sections 279/337 of the Indian Penal Code.

After trial, the Tribunal held respondent No.1 guilty of causing the accident due to rash and negligent driving of bus No.HYM 1029 on the date of accident.

The Motor Accident Claims Tribunal, Narnaul vide its order dated 4-2-1991 awarded a compensation of Rs.60,000/- to the appellant under the following heads:

Hospitalization

By calculating a sum of Rs.200/- per day by way of medical treatment, attendants expenses and other misc. expenses.	Rs.7,400/-
Posterior dislocation of the right hip, conducted on 28-1-1990, nailing was done in the right fumer and plating was done in the left fumer.	Rs.2,000/-
Conveyance	Rs.3,000/-
40% permanent disability	Rs.40,000/-
Loss of prospects of marriage	Rs.7,600/-
Compensation awarded to the claimant	Rs.60,000/-

Aggrieved by the inadequate compensation awarded by the Tribunal with respect to the permanent disability of 40%, the learned

counsel for the appellant stated that the same may be enhanced to Rs.2,00,000/-.

At the relevant time, the appellant was aged 20 years. He has been duly compensated with respect to medical bills, stay in the hospital as well as with respect to the marriage prospects. However, on the point of disability of 40% as assessed by Dr.Dinesh Podar, Medical Officer, General Hospital, Narnaul, who issued disability certificate Ex.PW1/A wherein he has noticed as under:

> "There was restricted movement of both knee joints with wasting of muscles of both thigh due to old fracture femur. In my opinion, the deformity was 40%."

This Court is of the view that the amount of compensation awarded with respect to the disability appears to be inadequate and the same is hereby enhanced from Rs.40,000/- to Rs.1,20,000/-, which respondents No.1 to 4 jointly and severally are liable to pay. The amount already paid by the respondents would be adjusted against the enhanced amount.

Thus keeping in view the facts and circumstances of the case, the appellant would not be entitled to any interest on the enhanced amount.

This appeal, thus, stands allowed in part to the extent mentioned above alongwith costs throughout. The counsel fee is assessed at Rs.1,000/-, if certified.

(R S MADAN)
JUDGE

August , 2006
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